

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 30040 of 2007(A)

PETITIONER:

**ROSAMMA MATHEW, NECHIKKAT HOUSE,
NEDUMKUNNAM PO, CHANGANACHERRY.**

**BY ADV. SRI.VIJU ABRAHAM
SRI.ANIL J.KOCHUPARAMBIL
SRI.JOY C. PAUL
SRI.DOMINIC JOHNSON**

RESPONDENTS:

**1. REVENUE DIVISIONAL OFFICER,
KOTTAYAM**

**2. REGISTRAR OF BIRTH AND DEATH & SECRETARY
NEDUMKUNNAM GRAMA PANCHAYATH
NEDUMKUNNAM.**

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANTONY DOMINIC, J.
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W.P.(C) NO. 30040 OF 2007 A
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Dated this the 25th day of October, 2007

J U D G M E N T

The prayer made in this writ petition is to direct the 1st respondent to issue an order under Section 13(3) of the Registration of Birth and Death Act, 1969 permitting registration of birth with the local authority as requested by the petitioner so as to enable the 2nd respondent to issue a certificate of birth in respect of the petitioner's children. There is a further prayer to direct the 2nd respondent to issue a certificate of birth in respect of the petitioner's children.

2. It is submitted by the petitioner that Exts.P1 and P2 are the applications submitted to the 1st respondent for issuing an order under Section 13(3) of the Act. In support of Ext.P1 application, petitioner has produced Exts. P3 to P7 and in support of Ext.P2, Exts. P8 to P12 documents were also produced. It is submitted that following the receipt of Exts. P1 and P2 along with the aforesaid supporting documents, on the directions of the 1st

respondent, the Village Officer, Nedumkumman conducted an enquiry and submitted Exts. P13 and P14 reports to the effect that the children of the petitioner were born within Nedumkunnam Panchayat. However, directing that in addition to Exts. P3 and P8 certificates produced by the petitioner from Nedumkunnam Panchayat, petitioner should also produce similar certificates from Paippad Panchayat from where the petitioner hails and the 1st respondent returned the application. It is on account of this that the writ petition has been filed for the reliefs mentioned above.

3. On instructions, learned Government pleader today submits that the petitioner had approached the 1st respondent with certificates from the Nedumkunnam Panchayat and that thereupon the 1st respondent had directed her to produce a certificate from the Paippad Panchayat as she hails from that Panchayat. According to the learned Government pleader thereafter the petitioner did not approach the 1st respondent with the required documents and that caused the delay.

4. In view of the controversy that is now raised before

me, the only issue I am called upon to examine is, whether the 1st respondent was justified in requiring the petitioner to produce certificate from the Paippad Panchayat in addition to Exts P3 and P8 issued by the Nedumkunnam Panchayat.

5. Counsel for the petitioner invites my attention to Circular No.B1-67004/85/L.Dis dated 01/02/86 issued by the Director of Panchayaths, Chief Registrar of Births and Deaths, produced as Ext.P15 in this writ petition, which relates to the issue of non availability certificate as is now required to be produced from Paippad Panchayat. On a reading of Ext.P15, the impression that I get is that before issuing Exts. P3 and P8 non availability certificates, which have already been produced before the 1st respondent, an enquiry has been conducted and it is only thereupon that the said certificates have been issued. Once that certificate has been issued, in my view as per the terms of Ext.P15 circular, no further enquiry in that regard is warranted. If that be so, there is no necessity for insisting upon production of a non availability certificate from Paippad Panchayat for the only reason that the mother of the children hail from that

Panchayat. Therefore, the 1st respondent was clearly in error in returning the documents and directing production of a certificate from Paippad Panchayat.

Accordingly, I dispose of this writ petition directing that the petitioner shall resubmit Exts. P1 and P2 applications together with Exts. P3 to P7 and P8 to P12 documents to the 1st respondent, in which case, the 1st respondent shall consider the application made in the light of the documents and also Exts. P13 and P14 enquiry reports submitted by the Village Officer, Nedumkunnam. Thereafter, the 1st respondent shall pass orders on the applications and the same shall be communicated to the 2nd respondent, who shall pass consequential orders. Petitioner shall resubmit the application within one week from today, in which event the 1st respondent shall complete the enquiry and pass orders within four weeks thereafter.

ANTONY DOMINIC, JUDGE.

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